

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7723

Petition of New Cingular Wireless PCS, LLC,                     )  
d/b/a AT&T Mobility ("AT&T"), for authority to                     )  
install a wireless communications facility in                     )  
Barton, Vermont   )

Order entered: 3/31/2011

**I. INTRODUCTION**

In this Order, the Vermont Public Service Board ("Board") approves the petition filed on March 2, 2011, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order"),<sup>1</sup> and grants the Petitioner a certificate of public good ("CPG") authorizing the upgrade of a communications facility located in the Town of Barton, Vermont (the "Project"), as part of Petitioner's Universal Mobile Telecommunications Service upgrade.

**II. BACKGROUND**

This case involves a petition and prefiled testimony filed by the Petitioner on March 2, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the Project.<sup>2</sup>

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1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

2. Prior to filing the petition with the Board, AT&T, on November 23, 2010, filed a request for an extension of the petition filing deadline. Pursuant to the Procedures Order, a petition must be filed within 180 days of the advance notice or it is considered withdrawn. AT&T filed the required 45-day advance notice on June 3, 2010. AT&T requests an extension of the 180-day deadline in order to complete a geo-technical study related to the Project. No comments on the Project or objections to the request for extension have been filed with the Board, and the Board sees no reason to deny the request in this case. Therefore, the request for extension is granted.

No comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

### **III. FINDINGS**

1. The Project is part of AT&T's Universal Mobile Telecommunications Service ("UMTS") upgrade that involves the installation and modification of wireless telecommunications services in Vermont. The ultimate objective of the project is to upgrade AT&T's Vermont network to provide 3G wireless technologies for simultaneous circuit-switched voice and packet-switched data communications. Exh. JP-3-6.B.1 § III.

2. The Project will allow interconnection with other similar AT&T facilities comprising AT&T's Vermont network, some of which have already been upgraded and others that are slated for improvements. Exh. JP-3-6.B.1 § III.

3. The Project involves the upgrade of a single facility located off of Route 16/Telfer Road in Barton, Vermont, on property owned by Joseph and Vincent Illuzi. AT&T maintains an existing telecommunications facility at the site using a 50-foot-tall wooden pole. Exh. JP-3-6.B.1 § I.

4. The Project involves the installation of a new 90-foot-tall wooden pole, with capacity for future co-location of equipment, at the existing site. The Project will also involve the installation of six antennas, each measuring approximately 4.5 feet by 10 inches by 6 inches, at a height of 88 feet on the new pole, the installation of new equipment within the existing equipment shelter, and a new icebridge. The Project will not exceed 135 feet in height or increase the height or width of any of the existing structures by more than twenty feet, and will involve only temporary earth disturbance associated with Project construction activity at the existing site. Exh. JP-3-6.B.1 § II.

5. The Petitioner has provided a structural report for the new wooden pole. The pole is capable of accommodating the new facilities, provided the recommendations in the report are followed. Exh. JP-3-6.B.1 § III.

6. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 7 and 8, below.

7. The Project will not have an undue adverse effect on aesthetics when viewed in the overall context of the existing facilities located at the site. Exh. JP-3-6.B.1 § IV.

8. The Project does not pose a potential adverse impact with respect to any natural areas or historic sites. Exh. JP-3-6.B.1 § IV; exh. JP-3-6.B.11.

#### **IV. DISCUSSION & CONCLUSION**

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing . . . .

The communications facility upgrade comprising the proposed Project, which includes the installation of a new 90-foot-tall wooden pole with antennas at an existing telecommunications facility, does not exceed 135 feet in height, does not include road construction and will involve less than 100 square feet of permanent earth disturbance. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of a communications facility at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 31<sup>st</sup> day March, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: March 31, 2011

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [psb.clerk@state.vt.us](mailto:psb.clerk@state.vt.us))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*